

# Notice of Allowability

Application No.

09/911,904

Examiner

Jeanine A. Goldberg

Applicant(s)

FARR ET AL.

Art Unit

1634

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/10/05; 2/11/05.
2. ☒ The allowed claim(s) is/are 45, 46 and 52-54.
3. ☒ The drawings filed on 23 July 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 5/2/05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other \_\_\_\_\_.

  
JEANINE A. GOLDBERG  
PRIMARY EXAMINER  
5/16/05

**DETAILED ACTION**

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Janeen Vilven on May 16, 2005.
3. The application has been amended as follows:
  - A) Claims 47-51 have been canceled as drawn to non-elected subject matter without prejudice.
  - B) Claim 45 has been amended to depend on Claim 52.
  - C) Claim 46 has been amended to depend on Claim 45.
  - D) Claim 52 has been amended to recite - - An array comprising a combination of canine nucleic acid molecules comprising SEQ ID Nos.: 116-118, 121 and 123 and

the complements thereof, and consisting of SEQ ID NO.329 and the complements thereof.- -

E) Claim 53 has been amended to recite - - An array as described in claim 52 wherein the array further comprises SEQ ID Nos.:115, 119, 120, 124-171, 182, 185, 188, 191, 194, 197, 200, 203, 206, 209, 212, 213-328 and the complements thereof and SEQ ID NO.s 330-384 and the complements thereof.- -

F) Claim 54 has been amended to recite - - A method for detection of a nucleic acid in a canine sample, said method comprising:

- a) obtaining nucleic acids from a canine sample;
- b) contacting the nucleic acids of the canine sample with the array of claim 52 or 53 under conditions to form one or more hybridization complexes; and
- c) detecting said hybridization complexes. - -

4. The following is an examiner's statement of reasons for allowance.

The claims are drawn to arrays comprising SEQ ID NO: 329 which is not taught or suggested by the art. The arrays further comprises sequences from canines including c-erb B2; catalase; p53, metallothionein-1 and multidrug resistant protein-1. The response sets forth a utility for each of these genes and supports the response with publications in the art showing the utility for each of these dog genes. Thus, the claims are useful for at least detection of the genes for the reasons taught in the art.

Therefore, the claims meet the requirements for patentability including utility, enablement, novelty and unobviousness.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jeanine Goldberg whose telephone number is (571) 272-0743. The examiner can normally be reached Monday-Friday from 7:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on (571) 272- 0745.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The Central Fax Number for official correspondence is (571) 273-8300.



**Jeanine Goldberg**  
**Primary Examiner**  
May 16, 2005